



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Patent application of : Group Art Unit:
Scott W. Huffer, *et al.* : 1774
Serial No.: 09/826,236 : Examiner:
Filed: April 4, 2001 : Tamra L. Dicus
For: LAMINATE FOR GUM PACKAGING : Attorney Docket No.:
9325-49 (149169)

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RESPONSE TO FIRST OFFICE ACTION

Commissioner for Patents
Washington, D.C. 20231

Sir:

This is in response to the First Office Action mailed August 19, 2002 with regard to the above-identified application. This response is being filed within the third month following the shortened period set for reply in the Office Action. A request for a three-month extension of time to file this response and a check to cover the associated fee are submitted herewith.

The check also covers the fee for an additional independent and an additional dependent claim submitted with this response. Authorization is provided to charge any additional fee associated with this response, or to credit any over-payment, to Deposit Account No. 50-0573.

**CERTIFICATE OF MAILING
UNDER 37 C.F.R. 1.8(a)**

I hereby certify that this paper, along with any paper referred to as being attached or enclosed, is being deposited with the United States Postal Service on the date indicated below, with sufficient postage, as first class mail, in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231.

BY

Jennifer K. Hanna

DATE:

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AFFIRMATION OF ELECTION

The Office Action includes a restriction requirement between what is referred to as Group I, claims 1 – 22, and Group II, claims 23 – 25. In response to a previous oral restriction requirement, Group I was provisionally elected for immediate prosecution. The election of Group I is hereby affirmed.

AMENDMENT

In the Claims:

Add the following new claims:

- A1
26. A gum package comprising:
a multi-layer laminate comprising a paper layer and a gas barrier layer; and
an electron beam cured coating on the paper layer, the coating comprising fixed processing additives.
27. The gum package of claim 26 wherein the fixed processing additives comprise a slip agent.

REMARKS and ARGUMENT

Claims 1 - 27 are pending in the application. New claims 26 and 27 have been added to the application. No new matter has been added by the amendment.

Rejection under 35 U.S.C. § 112 ¶ 1

The Office Action includes an enablement rejection of claims 1 – 12 because the specification allegedly lacks explanation of how metal foil is on top of a polymer layer. The standard for enablement is whether one of ordinary skill in the art would be able to make and use the claimed invention using the application as a guide. *In re Brandstadter*, 484 F.2d 1395, 1406 – 1407, 179 USPQ 286, 294 (CCPA 1973); MPEP § 2165.05. One way to show that a claim is enabled is to cite references to show what one skilled in the art knew at the time the application was filed. If subject matter is known to those skilled in the art, it need not be repeated in the application. In fact, it is preferred that the application omit that which is well-known to those skilled and already available to the public. *In re Buchner*, 929 F.2d 660, 661, 18 USPQ2d 1331, 1332 (Fed. Cir. 1991); MPEP § 2164.05(a).

At the time the present application was filed, it was well known to extrusion laminate a foil layer and a paper layer using a polymer layer. This conventional construction is described in the background section of the present application at page 2, lines 12 – 15. The prior art further